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OFFICE OF PETITIONS

ON PETITION

In re Application of
Guerrero, et al.
Application No. 10/611,770
Filed: June 30, 2003
Attorney Docket No. 42P16532
For: METHOD AND APPARATUS TO
PERFORM A MULTI-FIELD MATCHING
SEARCH

This is a decision on the petition under 37 CFR 1.182, filed November 28, 2003, requesting that Figure 6, omitted from the initial filing on June 30, 2003, be included in the original disclosure of the above-identified application and that the application be accorded a filing date of June 30 2003.

The petition under 37 CFR 1.182 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The application was filed on June 30, 2003. On September 24, 2003, The Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of June 30, 2003, and advising applicants, *inter alia*, that Figure 6 referenced in the specification appeared to have been omitted.

In response, the present petition was filed.

The mailing of the Notice permitted applicants to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioners have not established prior receipt in the Office of Figure 6 and petitioners have not requested a later filing date for the application.

Instead, petitioners admit Figures 6 was not present among the application papers filed on June 30, 2003, but assert that Figure 6 was referred to in the specification filed on June 30, 2003.

Presumably petitioners are arguing that Figure 6 is fully described in the specification filed on June 30, 2003 and does not contain new matter. Whether the later filed drawing contains new matter is not the issue. Either the drawing was present in the Office on the filing date of the application or it was not. If it was not present on the filing date, it cannot be considered a part of the original disclosure of the application.

Applicant does not allege in the petition that Figure 6 was present in the Office on June 30, 2003, and a review of the file confirms that Figure 6 was not present on June 30, 2003. Therefore, the application cannot be accorded a June 30, 2003 filing date with the drawing of Figure 6 as a part of the original disclosure. The issue of new matter is one appropriately addressed during prosecution of the application after the filing date of the application has been determined.

Of course, applicants may submit the drawing of Figure 6 as an amendment to the drawing figures in which case the examiner will determine whether the additional sheet of drawing contains new matter (see MPEP 608.02(h)).

Further correspondence with respect to this matter should be addressed as follows:

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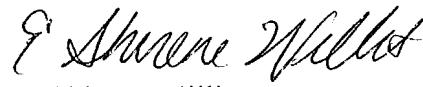
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The application is being returned to Initial Patent Examination Division for further processing with a filing date of **June 30, 2003**. Figure 6 will not be considered as part of the original disclosure.

Thereafter, the application will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.


E. Shirene Willis
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for Patent Examination Policy